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Report on the causes of municipal corruption...

[San Francisco]

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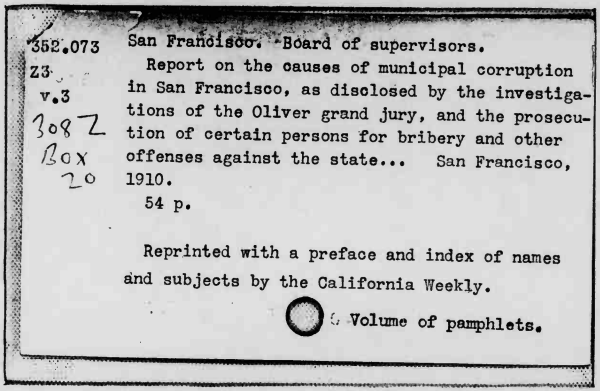

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San Francisco. Board of supervisors.
Report on the causes of municipal corruption in San Francisco, as disclosed by the investigations of the Oliver grand jury, and the prosecution of certain persons for bribery and other offenses against the state... San Francisco, 1910.
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Report on the Causes of Municipal Corruption in San Francisco, as Disclosed by the Investigations of the Oliver Grand Jury, and the Prosecution of Certain Persons for Bribery and Other Offenses Against the State.

WILLIAM DENMAN, Chairman,
WILL J. FRENCH,
HENRY GIBBONS JR.,
ALEXANDER GOLDSTEIN,
WILLIAM KIRK GUTHRIE,
WILLIAM KENT,
Committee appointed by the Mayor, October 12, 1908.

Published by order of Board of Supervisors, City and County of San Francisco, January 5, 1910.

Reprinted with a preface and index of names and subjects by
THE CALIFORNIA WEEKLY,
26 Montgomery Street, San Francisco.

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PREFACE

The significance of this report, aside from its obviously fair and judicial temper, lies in the character of the men who prepared it. The chairman of the committee is Mr. William Denman, a leader at the San Francisco bar and son of the founder of the public school system of the city. Mr. Alexander Goldstein has a wide reputation for honestly won success in business and for a large public spirit. Rev. William K. Guthrie is one of the foremost clergymen of the Presbyterian church in California. Mr. William Kent is a successful business man, who has also had a wide practical training in reform politics in Chicago. Dr. Henry Gibbons Jr. is the dean of the Cooper Medical College and a distinguished member of his profession. Mr. Will French is the editor of the Labor Clarion, and one of the ablest and most conservative of the local labor leaders. Father Crowley, who concurs in the recommendations, though unable from sickness to attend the later meetings and hence sign the findings, is universally beloved for his rescue work, and honored by all men of every faith who know him. Such a committee is securely above any suspicion of wilful misstatement, hasty judgment, or the charge of being disgruntled or irresponsible agitators. Their stake in the community is too large for these things.

The Report was given to the Mayor, who in turn presented it to the Board of Supervisors, the city's legislative body. The subjoined resolution was then passed and subsequently the Board ordered the report published. This is a reprint of that publication with the addition of the index.—Editor The California Weekly.

RESOLUTION NO. 5143.

(New Series.)

RESOLVED, That the Board of Supervisors hereby expresses its appreciation of the arduous labors of the Committee on the Causes of Municipal Corruption, and its gratitude for the valuable service it has rendered by its deliberations and recommendations.

Adopted unanimously, by a standing vote, in Board of Supervisors, San Francisco, California, January 5, 1910.

JOHN E. BEHAN.
Clerk.

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San Francisco, December 31, 1909.

Honorable Edward R. Taylor, Mayor of the City and County of San Francisco, San Francisco.

Dear Sir:

On the 12th day of October, 1908, your Honor addressed a letter to each of us, requesting an investigation into the circumstances giving rise to the series of criminal trials which have since been known as the "Graft Prosecutions".

It is our understanding, gathered from your letter and, more particularly, from the subsequent conferences with you, that our functions were to make an analysis of the crimes for which indictments were brought by the Oliver Grand Jury, particularly with reference to their classification as briberies or extortions; to gather such evidence as we could find concerning the classes of persons taking profit from the criminal or vicious enterprises uncovered by the investigation; the extent to which the public has been debauched or deceived into according political, social or commercial prestige to such persons; and the obstructions that the state has met in attempting to uncover the crimes or punish the offenders. In other words what was desired was primarily, a collection of the more recently manifested symptoms of a deeply seated disease in our body social and politic, in the hope that it may lead to a true diagnosis and the discovery of a cure.

Acting under your warrant, we have called for conference with us men from many classes of the city's social, industrial and political organization. The response has been on the whole, extremely willing, as soon as the invited persons have been convinced that we were not trying to secure evidence for the pending criminal cases and that we were not seeking to procure any further indictments.

The accompanying report is made up from the statements of these persons, the examination of the City and County records, the confessions of those charged with crime, and from various matters that have come under our own observation. As such a committee has not power to summon witnesses, no attempt has been made to determine what particular persons connected with the various quasi-public corporations engaged in bribery, actually collected and handled the money.

No one of the many persons we have interviewed has seriously questioned that all but one of the larger of these corporations, by some chain of agency, did pay moneys for favors done or promised. In view of the confession of Abraham Ruef who, as the attorney for nearly all of them, delivered the money to the officials, and of their ratification of the briberies by the acceptance of the benefits, we have taken the guilt of the corporations to be one of those facts established beyond a reasonable doubt.

The reader of the report must always bear in mind that we are considering a disease in the community, and that the description no more pictures the workings or organization of the whole corpus

of the people than a treatise on tuberculosis describes the structure or healthy functions of the human body.

The trust officer who invests trust funds in a house of assignation is not a fair representative of San Francisco bankers, nor is the example a fair one of his daily banking activity. The president of an exchange of merchants who becomes bondsman to the prostitute because it may help his sale of liquors to the lower class saloons, is not a fair sample of her merchants. The manager of the gambling stands of a race track who becomes a director in a social club of gentlemen is very far from a fair illustration of his fellow members. Yet each is, in our opinion, a fair illustration of the *symptoms of the disease* which you have commissioned us to describe.

Nor is it to be inferred that San Francisco alone is a victim of the malady. The evidence is conclusive that a like evil exists to a greater or less degree in all of the larger American cities. It is to San Francisco's credit, however, that she had been the first to show the moral courage to attack the persons responsible for the condition, regardless of their social, political, or financial power—and in some instances regardless of the fact that, in other respects, they are valuable members of the community.

We have to regret that sickness and absence from the city has prevented the Reverend Father Crowley from participating in most of our sessions, and hence in our final report. He joins in our recommendations and expresses his sympathy with the ideals and purposes of the committee. A copy of his letter to Mr. Denman is appended to the report.

In further response to your suggestion, we have appended certain general recommendations which we believe may be of value. The evils disclosed are firmly established in so many of our institutions that no single remedy can be expected to eradicate them. The school house, the club, the church, the bank, the business establishment, the political caucus, and the newspaper office, each must feel the force of an enlightened public opinion, and be levied upon for its contribution in the struggle which in its last analysis is but a phase of the eternal war between man's civic consciousness and his private greed.

WILLIAM DENMAN, Chairman,
WILL J. FRENCH,
HENRY GIBBONS JR.,
ALEXANDER GOLDSTEIN,
W. K. GUTHRIE,
WILLIAM KENT.

Report on the Causes of Municipal Corruption in San Francisco, as Disclosed by the Investigations of the Oliver Grand Jury, and the Prosecution of Certain Persons for Bribery and Other Offenses Against the State.

THE EARLIER INVESTIGATION BY THE WALLACE GRAND JURY—THE ADOPTION OF THE CHARTER.

The history of municipal wickedness in San Francisco dates back to the days of the discovery of gold and its population by gold seekers and adventurers from all parts of the world. The story of the Vigilance Committee of 1856, with its violent and extra legal efforts to suppress the demoralizing reign of crime then controlling the city, is well known; and the struggle against corruption in public affairs had been continuously active, in one form or another, from that time to this.

However, until the empanelment of the Wallace Grand Jury in August, 1891, we find no attempt made at a comprehensive search under forms of law for the causes and persons ultimately responsible for the class of municipal dishonesty now known as "grafting". This Grand Jury was empaneled under Judge William T. Wallace, then on the Superior Bench, but formerly a Chief Justice of the State. They were sworn on August 20th, 1891, and reported September 23rd, 1891. The first pages of this report show there was at that time, the same relation between a plutocratic organization of special privilege and the office holder, the politician and the public, that was disclosed by the more complete investigation of the Oliver Grand Jury in 1907.

"REPORT OF THE GRAND JURY.

"To the Hon. W. T. Wallace, Presiding Judge of the Superior Court of San Francisco:

"This body was assembled and sworn by the Court as a Grand Jury on August 20, 1891. It began work at once, appointed sub-committees, and arranged for frequent sessions. Very soon thereafter Stephen T. Gage, one of the directors of the Southern Pacific Railway, and Richard Chute, a salaried employe of the same company, declined to obey the subpoena of the Grand Jury.

"Their attorneys asserted that we were not a legal body exercising official authority, and when brought before his court, Judge Murphy sustained this view.

"By other processes the question was carried to the Supreme Court, and Creed Haymond, general solicitor of the Southern Pacific Railway, attacked the validity of the Grand Jury before that tribunal.

"The Supreme Court, after some days' deliberation, decided that we could subpoena and compel the attendance of witnesses. But these harassing delays consumed a month or more, and in the interval we could do very little as it was thought proper to be sure that we had the rightful power before it was exercised with necessary firmness. Then came a period of about six weeks without other legal checks or impediments. During this time we were free to delve into the arcana of rascality and dishonesty that fronted us everywhere. We made all efforts to fulfill our duty, and heard many witnesses. We collected an immense quantity of evi-

dence tending to show venality and money taking by various officials both municipal and legislative.

"We found that agents and brokers, who were fully recognized as such, went freely to persons interested in legislation and agreed to defeat or pass measures.

"Many persons other than those in office were implicated, and we began to wonder to what heights our researches would lead us. A number of men, presidents and directors of corporations, who had paid moneys either direct or through agents and brokers, had consented to make a full and unreserved confession in case we were adjudged by the highest legal tribunal in the State a lawful Grand Jury.

"These people may be deemed by some moralists more culpable than those to whom were paid the price of dishonor, upon the principle that if there was no booty there would be no thieves. The corporation owners defend the payment of this tribute in saying that the legislators and supervisors are highway robbers who have to be bribed; for otherwise, by adverse enactments they threaten the destruction of the financial interests involved. But in some instances these financial interests have been obtained in an improper manner, and a just enforcement of the statutes would cause the forfeiture of the acquired privileges.

"And if it be not so, who shall say these corporations are justified? What remedy can cure the injury to patriotism and free government that makes worthless rascals out of men who would have been perchance honest if they had not been tempted? Not even our vacuous laws admit any difference between the buyer and seller of men's consciences.

"Neither by law nor by that abstract sentiment of what is fair and right to man and man, is the tempter better than the tempted.

"The millionaire sitting in his luxurious office rotund with the wealth filched from the public coffers by unclean franchises, may hold up his hands and say, 'Preseerve me from these bandits.' But is he less culpable than the poor devil of a senator or assemblyman that has incurred debts during his candidacy which he is unable to pay? Who finds himself for the nonce lifted to a position which he knows is evanescent, and is tempted by wines, banquets and money?

"They are all alike guilty and criminal. But be that as it may, the tongues of these corporation owners for the present are silenced. For there came again legal intervention to thwart the Grand Jury."

The report was signed by the following Grand Jurors:

CHAS. HOLBROOK,
JAMES DENMAN,
H. L. DODGE,
IRVINE GRAHAM,
WILLIAM CLUFF,
P. J. KENNEDY,
JOHN A. LENNON,
C. W. McAFEE,
J. H. MUNDY,
MARK SHELDON,
W. S. ZEILIN,
REUBEN TUCKER,
WM. M. CUBERY,
JEREMIAH LYNCH,
BARCLAY HENLEY, Foreman.

It is apparent that the problem of the relative immorality of bribe giving and bribe taking, and the holding of profits of the

bribery had become, even at that time, one of public consideration.

The "legal intervention" which came again "to thwart the grand jury", followed the indictment and flight of Buckley and the summoning of Senator Stanford to testify to the part played by the Southern Pacific in the politics of the city and state. The Supreme Court of the State, by a vote of four to three, held that the grand jury was improperly constituted, because of an irregularity in the appointment of the elisor.

Among other matters considered in the report, was the following:

"The Mayor is helpless. He can do nothing. He is only a chief clerk. He has the appointment of his personal staff and no more. Like Prometheus bound to the rock of the Caucasus he sees these vultures eating the vitals of the City and can only cry out against the revolting deed.

"The Mayors of San Francisco have been generally reputable men. But could they, have they, stayed this dirty slime of corruption? It requires a rare order of courage to denounce those with whom one is in daily official and social contact. What, then, is the remedy?

"It is in a new charter, granting above all, enlarged powers to the Mayor, and for the exercise of which he would be directly responsible. He ought to be really, as he is nominally, the Head of the City Government. He should have the appointment of all subordinate officers whose election is now vested in the Board of Supervisors. His powers should include also the appointment of Park, Police and Fire Commissioners. For the Mayor's office is executive while the Boards of Supervisors are legislative, and to the executive, from the President and Governor down, is granted the power and the right to appoint, while the legislature in certain cases confirms."

Acting on the suggestion of this report, Mayor James D. Phelan subsequently appointed a committee of one hundred citizens to draft a charter which should attempt to remedy the administrative defects of the loosely drawn "Consolidation Act" and other statutes then constituting San Francisco's organic law.

It was apparent from the debates of the committee of one hundred that they did not expect to eliminate entirely from our Government the evil of grafting. What they attempted was to so reorganize and concentrate the functions of government that the responsibility for dishonesty or inefficiency could be readily traced and public opinion intelligently applied for the removal or reforming of the offending officer. The result of their deliberations was a draft of a charter which, after the formality of a consideration by a freeholders' convention, was adopted by a vote of the people. It is interesting to note that the machine organization of both the Republican and Democratic parties strongly favored the old system of concealed responsibility and actually fused on the ballot to support a set of candidates for the position of freeholder who were antagonistic to the charter proposed.

Mr. Phelan was the first mayor elected under the charter and with him an excellent board of supervisors. It is admitted by practically all the witnesses we have had before us that the government during this and Mr. Phelan's succeeding (and last) term was excellently administered, both in its legislative and executive branches.

The War Between the Laboring and Capitalistic Classes and the Development of the Schmitz-Ruef Machine.

During these years, there had been a gathering of forces for the struggle between the then newly organized unions of laboring men and the combination of capital employing labor. The last year of the Phelan administration saw the first engagement between these two classes in what was generally known as the "Teamsters' Strike". With the merits of this controversy we are not concerned, but the breach between employer and employee was widened by the conduct of both parties. The teamsters claimed that their organization, to prevent the employment of non-union men, was justified, because without it they were unable to resist the attempt of the employers to lengthen the hours of labor and hold down the wage.

The employers' organization refused to recognize any right of the employees to organize and also refused to listen to any arguments presented on behalf of the employees by agents of the unions. The denial of the right to band together for the purpose of collective bargaining with capital, solidified at once the somewhat loosely combined forces of the unions. Certain acts of deliberate and cold-blooded cruelty and violence towards the non-union, strike-breaking teamsters, drove into the capitalistic organization many persons who otherwise would have remained neutral in the struggle.

This alignment of the citizens, based on bitter class antagonism, has shown itself in the political life of the city ever since. In the succeeding election for the mayoralty, all administrative and political questions were entirely lost to view. Eugene E. Schmitz, the Union Labor candidate, whose campaign was skilfully handled by Abraham Ruef, was elected by a large plurality.

The election of Schmitz afforded ideal conditions for municipal corruption. The voters who elect or vote against a candidate because he represents a class in a class war, regard him solely as a class representative. They overlook the method in which he performs the ordinary functions of his position and are absorbed entirely in those official or extra-official acts which favor or injure the apparent interests of their class. No form of charter or legislative enactment can be devised to carry a government successfully under such conditions. However, while the charter was powerless to prevent an election on class lines, it entirely vindicated the wisdom of its framers in the clarity with which it exposed the responsibility for the corruption and the facility with which it lent itself to the substitution of an entirely new and clean administration, when class antagonism had quieted and administrative questions again became paramount.

During the first two Schmitz administrations, a majority of the Board of Supervisors was elected from incumbents of the Phelan regime, and no scandals have been discovered in the legislative branch of the government during that period. The second election of Schmitz, in 1903, found the laboring men still strong in his support, and his plurality should, in the main, be attributed to the class antagonisms again skilfully fomented by Ruef.

The activities of Ruef on his own behalf were shown to have begun in the profitable stimulation of the vicious industries of the town almost immediately after Schmitz's first election. These earlier enterprises were consummated through the aid of the various municipal commissions, all of which, with the exception of the Board of Education, are subject to removal by the Mayor without trial.

In the summer of 1903, Ruef had already begun to reach out beyond mere grafting on vice. We find him approaching Rudolph Spreckels with a scheme to so shape the relation between labor and capital in San Francisco that no bank would dare bid a fair price for the municipal bonds to be offered for sale in the fall of that year. Ruef's plan was to precipitate a street-car strike at the time of the receipt of the bids, thus enabling Mr. Spreckels to buy in the bonds without competition, at a low figure. The day this proposition was made, Mr. Spreckels met Mr. Thomas Driscoll and Mr. Edward Tobin at luncheon and told them of his experience with Ruef and his intention some time to organize and drive such men out of power in the city, and, by perfecting a good government organization, keep them out. Up to this time Mr. Spreckels had taken no special interest in civic affairs, but the boldness of Mr. Ruef and the viciousness of his proposition opened his eyes to the duty of men in his position to use their influence for better city government. It was this incident, he says, which turned his mind away from a career devoted exclusively to business.

The citizens still living, who had in the nineties organized for the overthrowing of the Buckley regime, were not blind to the conditions existing, but their appeals seemed to fall on deaf or unwilling ears. By their efforts both the Democratic and Republican parties were brought into fusion in 1905, and the campaign of that fall brought forth a full discussion of the evils of the administration. A final rally was held the night before election, at which Mr. Francis J. Heney told, in plain language, of certain briberies which were subsequently made the subject of indictment, and pledged himself to return to California and assist in prosecuting the guilty persons, of whom Mr. Ruef was one, should a third election continue Ruef in power.

Mr. Heney had just tried a remarkable series of cases, twenty-one in all, against a large body of men engaged in looting the Federal Government of its timber properties in Oregon and elsewhere. As a result of his prosecutions a vast conspiracy to defraud was disclosed and thirty-four men (amongst others a United States Senator), were convicted, but three of whom maintained successful appeals. These trials were all in the Federal courts, where the orderliness and dignity of procedure precluded the suggestion that the judgments were the result of any improper methods. All this prestige, however, failed to obtain for Mr. Heney sufficient attention among the voters to make any impression on the election results.

Nor was the support of Schmitz due to any failure on the part of the press to make public the character of his administration. For many months prior to the election of 1905, the "Evening Bulletin", under the editorship of Fremont Older, had been raising

the cry of corruption. That paper painted a picture of the viciousness of the city government which, in its shocking verity—though amply justified by the subsequent investigations of the grand jury—gave offense to many good citizens, that is to say, to many good persons who were quite willing to stay blind apparently, at any cost to their inner self respect.

The third election of Schmitz showed a decided change in the character of the vote he received. In the portions of the city where the more prosperous merchants and capitalists lived, men who by instinct and interest would be most unlikely to support a Union Labor candidate, he received a very considerable plurality, while in the "Labor" districts his vote showed a decided falling off.

It was for a time suspected by many that the sinister strength of Schmitz in the wealthy quarter of the town was due to tampering with the voting machine. It could not be believed that the financial leaders, the bank managers, the great merchants, and the more pecuniarily successful of the professional classes, were in sympathy with an administration pledged to an extreme Labor platform and about which the odor of corruption was already discernible. The discovery, fourteen years before, by the Wallace Grand Jury, of the participancy of many members of these classes in municipal corruption, or their sympathy with it, had been forgotten.

As the reason for the majority of the Union Labor leader in the residential quarters of the town given over to the capitalist and his class, only became apparent upon the exposures of the Oliver Grand Jury, we leave to that chapter the explanation of what, on its face, is a political contradiction.

The Failure of the Schmitz-Ruef Ring to Control the District Attorney's Office, as Shown by Langdon's Raids on Protected Gambling Resorts—His Independence the More Significant Because of the Gambling Spirit in San Francisco.

Amongst others on the Union Labor ticket, was William H. Langdon, who was elected District Attorney. Ruef, not fully realizing the number of his friends among the richer classes, and, no doubt, feeling Schmitz's declining popularity with the laboring people, had sought to strengthen his ticket by placing on it Mr. Langdon, then Superintendent of Schools, who had a large following both inside and outside the School Department.

It became apparent very shortly after his election that Mr. Langdon's hold on the sympathies of the average voter was largely based on much more of moral character than even the wiser political observers had given him credit for, and that whatever votes his name may have brought to the Ruef-Schmitz organization, Langdon did not intend that that name should be sullied by the corruption of the Schmitz administration. Shortly after taking the oath of office in January, 1906, he began a series of raids on the many establishments of the professional gamblers operating under the protection of the Ruef-Schmitz Board of Police Commissioners.

The significance of Langdon's raids becomes apparent when we consider the remarkable attitude which a very large portion of the community bears toward the vice of gambling., Men of recognized prominence in the social and financial life of the city openly admitted their proprietorship and participancy in gambling ventures of the most sordid character. The proprietor and manager of the Emeryville race track, the largest and most widely demoralizing gambling establishment west of the Rocky Mountains, a man who was also one of Schmitz's bondsmen, has been elected since the fire to the directorate of one of the oldest clubs in San Francisco. This organization has long occupied a commanding position in the social history of the city. It has among its members the greatest number of the owners and managers of the various large quasi-public corporations of the state, and probably of the whole West, men who are real leaders in finance and trade, and creators of industries. While occupying the position in their governing body to which these gentlemen had elected him, the whole state arose in arms and, after a violent campaign in which was exposed the daily toll of embezzlement, suicide and ruin he had caused, compelled the legislature to pass a law aimed at closing his gambling stands. With these high lights thus thrown on the character of his business, and despite his intimacy with the indicted Mayor, he was again chosen one of the directors at their next election.

The slot machine is a gambling device whereby a saloonkeeper or cigar man wagers liquors or cigars against his cus-

tomers' small coin on the turn of cards mechanically shufffled. This contrivance was licensed by the Supervisors. It was installed openly on the street in cigar stands and stood on practically every bar in the city. At first the objections of the innocent were quieted by the suggestion that the device was a mere "trade stimulator"; but the lines of men and boys standing on the sidewalk waiting their turn to wager with the shop, and playing their coin long after their immediate need for tobacco had been supplied soon made it clear that its purpose was mainly to appeal to the gambling instincts of people of moderate means. To the more thoughtful, the suicidal policy of an American city licensing a machine to stimulate the nervous, high strung American to the use of alcohol or tobacco, was as abhorrent as the denial that the city was licensing gambling was absurd.

The large profits of these machines were divided between the high rents of the landlords and the proprietors of the stands, after paying the salaries of the considerable body of persons employed to supervise the playing. It is trne that some landlords refused to become silent partners in such discreditable enterprises. The exceptions, however, were few and the numbers of such gambling plants in the city ran into thousands, standing educators to the children on the streets in the easily learned vice of seeking to acquire the property of somebody else without giving an equivalent.

It would seem that the banks, the supposed conservators of thrift and saving, would be the first to protest against the evil. On the contrary, we find that when the civic sense had been awakened to the point where the Supervisors were considering a bill to abolish the machines, the majority of the large commercial banks of the city signed the following petition:

"To the Honorable Board of Supervisors of the City and County of San Francisco, State of California—Gentlemen:

"The undersigned of the City of San Francisco, respectfully request of your Honorable Body that Bill No. 782, passed to print on Monday, April 5, 1909, be amended so as to limit the number of slot machines in use at any one place, to two (2); that the use of slot machines to be licensed be limited to the stimulation of trade in merchandise dealt in by the owners of the machines; that all so-called 'play-backs' be prohibited; that the granting of licenses for slot machines be placed under the supervision of the Police Department in order that gambling may be prohibited; that the time for the issuance of licenses to any person, firm or corporation shall be limited to the period between July 1st, 1909, and January 1st, 1910, and that all licensing of all slot machines shall be discontinued on January 1st, 1910, instead of July 1st, 1909, as provided in the said Bill Number 782, all of which provisions are incornorated in a proposed amended Bill which will be submitted to your Honorable Body with this petition.

"We are moved to make this request by reason of the fact that the less than three months remaining until July 1st, 1909, is not sufficient in which to allow the cigar dealers of this City and real estate owners from whom they rent their places of business, to so adjust their business relations as to prevent the unavoidable and serious hardship that will result to all parties concerned, if the Bill is put in force at that time.

"Many tens of thousand of dollars are invested and leases running into the thousands of dollars per month have been made upon the basis of the use of those machines as they were used prior to the fire and for the past fifteen years, and to entirely upset these arrangements, made in good faith by all parties, a large majority of whom have never used their machines as gambling devices, will mean ruin for many very worthy people, who are in no sense law-breakers, and are among our most respectable citizens.

"The mere fact that certain persons have violated the law and used their slot machines as gambling devices, should not move your Honorable Body, in your effort to reach and prohibit their schemes, to work a hardship to a much larger number of honest persons.

"Believing that you are actuated only by the best motives, and that you desire to do the greatest good to the greatest number, we respectfully submit this petition in the hope that it may be granted.

"WELLS FARGO NEVADA NATIONAL BANK OF SAN FRANCISCO,
"UNION TRUST COMPANY OF SAN FRANCISCO,
"COLUMBUS SAVINGS AND LOAN SOCIETY,
"THE ANGLO & LONDON PARIS NATIONAL BANK,
"THE BANK OF CALIFORNIA
"THE FIRST NATIONAL BANK OF SAN FRANCISCO, CAL.,
"THE CROCKER NATIONAL BANK OF SAN FRANCISCO.
"THE SAN FRANCISCO NATIONAL BANK,
"WESTERN NATIONAL BANK."

It is claimed that because on an average a day's play the so-called "honest" machines netted the house about a fair price for the drinks or cigars lost by it, the institution was not a gambling device. This equally shallow contention is answered by the fact that the same player does not play against the house all day. While the luck may average even for the house over a period of time, this is due to a balance of the cigars won by some players against the coin lost by others.

This is what these banks call a "stimulation of trade" by machines not used as "gambling devices" by many "very worthy" and "most respectable" people.

The admitted purpose of this appeal of the banks was to allow the landlords and the keepers of the machines to take profit enough from the public to tide them over the period of readjustment and to a future date, when the practice would cease. To do this, however, they were willing to argue that the machine was not a gambling device because it decided a wager of tobacco against money instead of money against money.

In a community in which gambling was treated with such tolerance, it was a matter of more than ordinary significance that the District Attorney should have commenced a vigorous enforcement of the laws against the large gambling resorts. A number of church organizations, particularly the Catholics, and many good citizens, rallied to Langdon's support. As the entire city government, including the Police Department, every administrative board and the Supervisors, was under the control of Schmitz and Ruef, and as several of the police judges had been elected from their ticket, the task seemed almost hopeless. Langdon could neither obtain the officers necessary to ferret out the criminals, or to enforce the

laws, nor the funds from the Supervisors to hire special detectives for that purpose. Nevertheless, he was able to close two of the establishments which were running under the protection of the administration, and to prevent others being opened.

The significant thing, however, was the demonstration that the people had a District Attorney who was with them rather than in the camp of the enemy—and this at the beginning of the term of the corrupt Board of Supervisors, and before their alleged hold-up practices had been disclosed.

It was this fact of Langdon's willingness to enforce the law, even against a vice as complacently established as gambling, which brought ridicule on the subsequent claim that the quasi-public corporations had been held up and were victims of extortion. We have later set forth the names of the directors of these corporations. It cannot be doubted that if Mr. Langdon had had behind him the power and wealth of these men, either the alleged extorting would not have been attempted or the guilty parties would have been convicted without great delay.

The Commencement of the Investigation of the Schmitz-Ruef Regime.

As we have before pointed out, the Supervisors, the legislative body of the city, had not been captured by the Ruef-Schmitz machine until the November election of 1905, and that from the adoption of the charter in 1899, until January, 1906, the beginning of the term of the Ruef-Schmitz Board, there had been no suggestion of corruption with regard to the fixing of rates for water or gas, or the granting of franchises or permits. The attacks of the "Bulletin", and of the many speakers who took the stump in the fusion campaign of the fall of 1905, were all directed at the evils existing in the administrative boards which were appointed by Schmitz, particularly the Board of Public Works, which were spending large sums of the tax-payers' moneys with an absurdly small showing in results, and the Police Department, which was marketing the privilege of violating the laws passed for the regulation or suppression of the city's vices.

In December, 1905, Mr. Older, Mr. Heney, and Mr. Lincoln Steffens met in Washington, D. C., where Mr. Heney was engaged in matters arising out of the prosecution of the timber frauds. These gentlemen had a long conference concerning the situation in San Francisco, and Mr. Older suggested that Mr. Rudolph Spreckels, a very large tax-payer, and hence interested in suppressing the extravagance of the Schmitz boards, could be persuaded to assist in securing funds to aid in exposing the corruption in San Francisco, and that Mr. Phelan, who had inaugurated the government under the charter, and had been very largely instrumental in securing its enactment, would also be willing to contribute for this purpose. Mr. Heney then agreed with Mr. Older that as soon as he could free himself from his engagements with the national government he would lend his services to a movement to prosecute the offending officials. The only condition he imposed was that Mr. William Burns, the Federal detective who had unearthed the timber frauds, should co-operate with him and that there should be sufficient funds supplied to secure Mr. Burns any other assistance he might think necessary. Subsequently, in January, 1906, Mr. Heney, Mr. Older, Mr. Spreckels and Mr. Phelan met in San Francisco, and plans were further matured. Mr. Heney's pre-occupation with the land fraud cases delayed the matter until the June after the earthquake and fire of that year, when Mr. Burns' detectives began a systematic investigation.

All of this becomes pertinent in view of certain charges made long afterward "that the citizens should not support District Attorney Langdon or Mr. Heney (who subsequently became his assistant) because they were tools of Mr. Spreckels in an attempt to ruin certain persons indicted for bribery in connection with the passage of franchises for quasi-public corporations." The plan of attack on the Schmitz-Ruef administration had been determined at a time when the only evil aimed at was the corruption in the administrative boards of the government, months before the franchise briberies had been suggested, and even before the board which was subsequently bribed had taken office.

The Wide Spread of the Evils Lending Support to Corrupt Government, as Shown by the Character of the Crimes for Which Indictments Were Brought by the Oliver Grand Jury.

What was happening during the period before and after the fire is best learned from the testimony given before the Oliver Grand Jury, and in the confession of Ruef, which came as a result of the facts there developed. The crimes unearthed belong to the three classes customarily found in American cities, namely those for the protection of illicit or demoralizing enterprises, commonly known as "Police Graft", those for obtaining franchises or privileges, known as "Franchise Graft", and those for securing advantageous rates to the corporations supplying quasi-public utilities, known as the "Rate Graft". The French restaurant cases fall under the head of the first class; the Parkside, the Home Telephone, the overhead trolley deals and the prize fight monopoly under the second; and the gas rate bribery under the third.

We shall, in the succeeding sub-sections of this chapter, endeavor to analyze these crimes and to show something of the relationship they bear to the social, financial, political and economic organization of the city.

THE FRENCH RESTAURANT EXTORTIONS.

There are many respectable restaurants in San Francisco conducted by Frenchmen, but the term "French Restaurant" has a meaning in the parlance of the town which conveys much more than the implication that a given restaurant has a French proprietor. The term is applied to a peculiar kind of transient house of assignation, obviously arranged for immoral purposes, sometimes having a conventional restaurant dining room on the ground floor, and sometimes a banquet room and a few private dining rooms without the assignation accompaniments. The building is often five or six stories in height, and in nearly all cases built expressly for illicit purposes.

The presence of the restaurant on the ground floor gives a certain air of legitimacy to the enterprise. On account of the large profits from the sale of foods and liquors to the persons using the upper stories, and for the rental of the rooms above, the prices in the restaurant are made exceptionally low, considering the skill of the cooks and the quality of the food served. As strict propriety of conduct is required in the public dining room, many innocent and respectable people patronizing the place do not stop to analyze the reason for the low price. Behind this veil of respectability many a tragic "first step" downward is taken.

The business is very prosperous, and, as is usual, the landlord shares in its prosperity. People of social prominence were known to accept a portion of the profits of such establishments, through the extremely liberal rentals paid, and the system is received with easy toleration. One of the largest of these assignation places was located on a prominent corner of the downtown shopping district, where hundreds of women daily passed its doors. The building, five stories in height, had four stories devoted to the private supper

bedrooms. The land was owned in trust by one of the largest, if not the largest, trust company in the West. A lease was sought and obtained by a man notorious in the line of business above described; the building was constructed by the trust company according to plans satisfactory to him for this purpose, and the enterprise was conducted there for seven years until the building was destroyed by fire.

The significant thing about such a transaction is, not that there are people who are willing to accept money from such a source, or financiers willing to put trust moneys to such uses, but that the facts, though well known, did not seem to detract in the slightest from the social recognition accorded to the persons so taking a share of the profits, while the officer of the trust company which made the lease of that particular house situated in the shopping district, was appointed a regent of the State University.

A striking illustration of the toleration which permits a corrupt Mayor to deal in illicit privileges and to take profits from vice, arose in connection with a raid on a famous house of prostitution—presumably similarly licensed—during an earlier and unsuccessful investigation of the Ruef-Schmitz regime, undertaken by a grand jury of which Mr. T. P. Andrews was foreman. The immunity from police interference which this place was accorded had earned it the name of the "Municipal Crib". In the raid one hundred and sixty prostitutes were arrested from the one house, and released on the deposit of bail money exceeding in all Sixteen Thousand Dollars. It was subsequently published—and never denied—that the money was furnished by a prominent liquor man who was, at the time of the publication, the president of one of the oldest, the most powerful, and the richest of the associations of merchants in the city. That their president, a wholesale liquor man, might be also a wholesale backer of prostitution, did not arouse the merchants to the extent of even making an investigation, and he served out his term, which, at the time of the exposure had less than one-half expired. The fact that his company was, at the time of the raid, selling liquors to a large number of resorts whose licenses were dependent upon the Schmitz Board of Police Commissioners was accepted by many as a sufficient excuse for his supplying the bail.

The Ruef-Schmitz organization, recognizing how easily such illicit enterprises could be made to pay tribute, devised a plan to obtain a share of their profits. They included in their attack the trust company's restaurant already described. This was made the easier from the fact that one of the members of the Board of Police Commissioners had consistently opposed the granting of licenses to these places as soon as he had become aware of their extremely vicious character. The Mayor inspired another member of the Board of four commissioners, who have absolute power to grant or withhold liquor licenses, to commence an attack on the system and to threaten refusal to renew the licenses. The restaurant keepers soon discovered it was necessary to employ Ruef as an attorney to defend them before the Board. It is interesting to note that the member of the Board who had apparently conscientiously anticipated the attack on the system, refused to cease when the matter had been arranged, and was subsequently removed by the Mayor. Ruef was paid large "fees" by the restaurant proprietors, and the licenses were renewed at their expiration.

Five indictments were brought against Schmitz and Ruef based on these extortions, and Ruef later pleaded guilty to the charge on one of them. Schmitz was convicted by a jury, but the conviction was set aside by a decision of the District Court of Appeal, on the ground of a technical defect in the indictment. This defect also released Ruef.

THE PRIZE FIGHT TRUST BRIBERIES.

As might be expected of a community which gilds its so-called social evils with the accessibility and attractiveness of its French restaurants, San Francisco still licenses prize fighting. This is done through the medium of its limited-round boxing permits. The words "limited" and "boxing" are a sham that deceives no one, and encounters are openly advertised as for the various prizefighting championships either local or for the world. The "knockout", inducing unconsciousness, is a frequent termination of the encounter, while the "limit"—often twenty rounds, extending over nearly two hours—finds the contestants seriously beaten up and the audience in a frenzy of brutal excitement. This gladiatorial brutality is apparently the sole reason for the continuance of the fights, as there are few persons who are induced by the example of the prize ring to take up the sport for physical development or athletic competition.

The first crime in which the Ruef-Schmitz Board of Supervisors participated as a whole, was in the creation of a monopoly of these fight permits for a body of promoters known as the Prize Fight Trust. These men paid Ruef a large sum of money for the exclusive right to the permits, and Ruef in turn distributed a part of the money to the members of the Board. The price was high, as in the case of the French restaurants, for there was a strong feeling in the community against the continuance of the "fight game", primarily because of its essential barbarity, and secondarily because, being prohibited in most of the other large cities of America, San Francisco became the rendezvous of a large proportion of the pugilists and their following of trainers and rough sporting men of the entire country.

We have found no indications in the prize ring graft which connect it up with the higher financiers, or the landlord, as in the case of gambling and the social evil, but it appears that the business is as firmly established and as regularly organized as either of the former. The "People of the State of California", the plaintiff in all these cases, or the "Prosecution", as they were nicknamed, by focussing the public attention on their character through these indictments and raids, were placing all three of these institutions in jeopardy. The cry that the prosecution was "hurting business" became the watchword of all those who profit by the tenderloin enterprises, both high and low, as well as others in more innocent employments who were led to imagine they would be better off if the city's vices were left to run "wide open".

THE OVERHEAD TROLLEY BRIBERY.

The so-called trolley bribery was for the purpose of securing a change in the motive power of the roads belonging to the United Railroads of San Francisco, from cable to the overhead electric trolley. These cable roads had practically no loss from experimentation in the mechanism of their cable systems and the right to charge five cent for the carriage of passengers over the city's

streets in cable cars had proved so profitable—that is to say, the carriage after payment of all expenses and providing a sinking fund for duplicating the plant, cost so much less than the five cents fare—that the franchises were valued at many millions more than the cost of duplication.

The citizens had recognized that the cable franchises had turned out to be gifts of millions in value to the railways, and there was a strong feeling that if the company were to receive permits to install any other motive power which science might have rendered cheaper, a considerable part of the gain should be shared by the people. Negotiations for adjusting a bargain whereby electricty might be substituted for the cable had been begun in 1905 between the "Committee of Improvement and Adornment" and the railway company, through its president.

At the outset there was a demand that on certain main arteries of the city the underground electric system should be used. The United Railroads insisted on the universal use of the overhead trolley, and made no offer to share the great benefit of cheapened operation. Neither better seating accommodations nor reduced fares were to be had in exchange for this valuable privilege. The only offer, as against a grant worth many millions, was $200,000 to the city to be expended on its parks, they well knowing that any moneys expended on park improvement would be returned many times to the coffers of the road carrying the people thither.

The company retained Ruef as one of its attorneys in the latter part of 1905, after the election of the Ruef-Schmitz Board of Supervisors. The negotiations with the citizens were broken off in March, 1906, when the company announced that it would deal directly with the Supervisors. Ruef confessed that the arrangement had been made with him for the passage of the ordinance for the overhead permits in the latter part of March, or early in April, and prior to the fire and earthquake—that is, shortly after the company announced that it would deal with the Ruef-Schmitz Board, and after it had broken off negotiations with the Adornment Committee.

The earthquake and fire of April 18, 1906, temporarily suspended transportation on the cable lines. Only one of the United Railroads power plants for the roads which were afterwards changed from cable to electricity was destroyed—that of the Sutter Street system. The plant on Valencia street, which served Market and Valencia streets, the main artery of the city, was so slightly injured by the earthquake that its power would have been available on the morning after, while the injuries by the fire would have delayed the resumption of the operation of the road but a few days. The damage to the various cable slots by the earthquake was not of a serious character, and there seems to be no question that inside of a month after the fire all the cable roads subsequently converted to electricty, save the Sutter Street system, could have been running. The Geary Street cable road, an independent line, actually commenced running on the morning of the earthquake. The width of the tracks on the streets operated by the Sutter Street power house was greater than the standard gauge for electric cars, and hence these lines were not available for the rapid conversion into electric roads. In fact no passengers were carried on these lines for many months after the fire.

The truth regarding the availability of the cable lines of the

United Railroads for the resumption of business was not disclosed by the company and no beginning made on the comparatively slight repairs necessary to put them in order. In the confusion and distress caused by the fire and the succeeding struggle to rebuild the city, the facts were not investigated and the general public believed that the cable roads could not be made available till long after the time necessary for the installation of the trolley.

There was a double purpose in concealing the good condition of the cable lines after the fire. The company was not confined to the Board of Supervisors to obtain an ordinance granting the permit to change its power from cable to electricity. The San Francisco charter provides that such an ordinance shall, on the filing of a petition signed by 15 per cent of the city voters, be submitted to the people at the next election, and the obligations of the city officials to submit such a proposed ordinance is mandatory.

The belief that the cable lines were destroyed made many citizens so apprehensive regarding the resumption of traffic, and hence the restoration of retail trade, that they were willing to ignore the method of procuring the permit from the Supervisors. Without the cables it seemed to them entirely impracticable to wait until the November election to submit an ordinance directly to the people. Had the city cable been restored by June 1st, and the question of voting an overhead trolley permit been submitted in November, five months later, there was no question that the citizens, realizing that in granting a permit they were giving many millions to the road in increased capacity for issuing bonds and stocks, would have demanded a substantial return either in additional seats or reduced fares.

Pursuant to the bargain struck with the railroad interests before the fire, the road, through Ruef, bribed the Supervisors to pass an ordinance permitting the use of the overhead trolley on such of its cable lines as the company should deem proper. The Supervisors were paid $4000 each, save Gallagher, who received $15,000, and Wilson $10,000. The ordinance was passed, and the roads are now operating the overhead trolley under the rights thus obtained.

The company expressed a great desire to see transportation restored in the city streets, and for a time their good faith was not questioned. This impression was dispelled, however, when it was discovered that instead of tearing up the cable conduits and replacing them with the overhead system block by block, thus leaving the remainder of the street open to traffic by team and motor, the company put to work gangs of unskilled laborers, which were then easily obtainable, and tore up the streets for miles at a stretch, leaving them in that condition for many months until small gangs of more skilled workmen—much more difficult to obtain—gradually installed the new system.

The uneven contour of San Francisco had caused the transportation companies to install their main cable lines along the streets of easy grade, and the shopkeepers had likewise established their stores along such streets, both because they were natural highways for persons on foot and because of the traffic brought by the cables.

The goodwill of such enterprises was entirely dependent on the habit of the customer to come to the particular locality of the store. The tearing up of the streets by the railway company destroyed hundreds of these establishments and congested the trade in the shopping streets that remained open. The motive was not a desire to

harm these shopkeepers or to favor the open streets, but to eliminate as quickly as possible the conduit for the cable, which the citizens' experts had declared available for an underground electric system. The confusion and lax administration of the city government made such a proceeding possible, and it was apparent that once the conduits were torn out the business men of these streets, having already experienced the ruin caused to their established trades by changing from cable to trolley, would back up the company's opposition to any civic movement for the underground system which, though much less offensive to sight and ear, has a somewhat higher operative cost.

THE PARKSIDE BRIBERY.

The Parkside Company owned a large tract of land about a mile and a half south of Golden Gate Park, which was called "Parkside." It was planned to subdivide this tract into small home sites, and the company desired a franchise for an electric road to connect it with the lines of the United Railroads. No doubt had such an ordinance for the franchise been submitted to the people under the charter provisions to that effect, it would have passed at the election of the fall of 1906. However, this would have required the selection of an unimproved street, as the only improved thoroughfare was a macadamized boulevard, and, under the city's laws, a railroad could not be run on any of its boulevards.

The firm of attorneys for the company sent one of its members, who was also an investor in its shares to the amount of $50,000, to secure Ruef's assistance in passing an ordinance through the Board granting the franchise. He reported back that Ruef demanded money. Subsequently the matter was arranged; not, however, by the attorney in question. The agreement was that the Supervisors should declare an unimproved street which adjoined—a mere surveyed streak of sand—to be the boulevard in place of the macadamized street. The latter thus becoming an ordinary city thoroughfare upon which rails could be laid, the franchise was to be granted over some sixteen blocks of its length. The money was paid, but the plot was discovered before the ordinances were passed.

No one has had the temerity to urge that this transaction was an extortion or a holdup. Not only did its profitable escape from paving over a mile of street, the absence of any attempt to submit the ordinance to the people at the election of 1906, and the failure to seek relief from the District Attorney, preclude such a proposition, but in this case the District Attorney got wind of the negotiations and on asking the company whether it was being blackmailed was assured that it was not.

The most striking incident in connection with this transaction, from the standpoint of one trying to analyze the forces which have combined to embarrass the people in these prosecutions, was the fact that the attorney who reported back the necessity for bribery was a former judge of the Superior Court and the then president of the San Francisco Bar Association, a man of ability, good social and professional standing, and attractive personality. Although it was made public that he had neither disclosed the crime to the District Attorney nor withdrawn from the investment, nor given up his attorneyship or his directorship in the Parkside Company, he did not resign his presidency of the Association. An indictment (subsequently quashed)

was found against one of his partners for alleged participancy in the offering of the bribe. This made it apparent that it would be necessary for the Bar Association to consider his partner's disbarment, either for the bribery or for the purchase, as the legal representative of the Company, of Ruef's influence over the Board—a political crime as subversive of the government as bribery itself, and hence a violation of the attorney's oath.

Several other prominent attorneys were involved in similar transactions and there was a plain need for a vigorous investigation to determine the propriety of their disbarment as well. A motion was made at a meeting of the Association that such an investigation be undertaken, and the matter was referred to the Grievance Committee. In that body a sub-committee was appointed to follow the criminal prosecutions and determine whether any unprofessional acts, not amounting to crimes, had been committed. Nevertheless this man clung to his position as the head of the Bar Association, and he received a re-election to the presidency at the next annual meeting. At a subsequent re-arrangement of the Grievance Committee he omitted the names of the persons who composed the sub-committee which was to make the investigation. To such lengths was this partnership in evil for personal gain carried that honor, reputation, dignity, are forgotten, and those who should be the bulwark of the state have become its peril.

We are glad to observe that since this time there has been a different spirit infused in the Bar Association, and that it seems to be awaking to a keener appreciation of the obligation it owes the profession and the community whose laws it is organized to sustain.

HOME TELEPHONE BRIBERY.

The Home Telephone bribery was an attempt on the part of some owners of capital in distant cities to obtain a franchise for a system to compete with the Pacific Telephone and Telegraph Company, the local organization. As the Supervisors were to offer a franchise which fitted the apparatus of the Home Company only, and hence as no one else would bid against them, and as the Home Telephone Company had no investment in San Francisco to protect, here, as in the other cases we have considered, the claim of extortion was not present. These promoters were seeking a greater income on their moneys and did not hesitate to debauch the city's officials to prevent competition and make the profit possible. The franchise was successfully obtained, the Supervisors receiving an average of $5000 each for their votes.

THE PACIFIC TELEPHONE BRIBERY.

The Pacific Telephone and Telegraph Company bribed the Supervisors to prevent the Home Telephone Company, or any other organization, from obtaining a telephone franchise in San Francisco. No attack of any kind on the Pacific Telephone and Telegraph Company was threatened by the Supervisors, and the sole purpose of the crime was to maintain a profit which might be cut by the competition of business rivals. The Supervisors were paid in all over $50,000. The managing committee of the board of directors of the company swore before the Grand Jury that they did not know how the funds were procured for the bribery.

THE GAS RATE BRIBERIES.

We have seen that all the crimes we have heretofore considered, save the French restaurant extortions, were either briberies to secure privileges from the city without making adequate compensation, or to obtain a profitable investment of outside capital, or to prevent the competition of business rivals with profitable monopolies. The element of extortion of "holdup" seems lacking in all of those, in view of the large profits or advantages obtained, the readiness of the District Attorney to enforce the laws, and the further fact that the citizens could have been appealed to directly for the passage of ordinances giving the rights sought, in the event the Supervisors improperly refused them.

The gas rate briberies present a different consideration. The fixing of the rate to be charged for any quasi-public utility should be the result of a judicial inquiry, based upon an intelligent consideration of the elements entering into the cost of the utility at the time it reaches the citizen. This is, in each case, a task of large proportions and should be approached in a purely judicial attitude of mind. Such adjudications in fact involve larger sums and the interests of more persons, and require the consideration of more diverse and intricate factors in reaching a judgment than any other class of litigation brought before our courts or legislative bodies.

Instead of creating a tribunal possessed of the requisite professional training to deal with the evidence of values and the engineering and other scientific questions which must necessarily be considered, practically all American communities have turned these adjudications over to the municipal legislative boards. These are made up of men elected on platforms almost exclusively political in their character, and who serve for short terms and hence are extremely sensitive to the clamor of the rate-payer. Not infrequently the party platform pledges the nominee to decide the question in a certain manner before he can receive his nomination, and the citizens are asked to vote for him because he has promised that, no matter what evidence may be presented as to the cost of the utility, he will declare the rate to be a certain figure. The Ruef-Schmitz Board was elected on such a platform—that is to say, the citizens had pledged their Supervisors to adjudicate gas rates at seventy-five cents per thousand feet. The reduction was prevented by bribes aggregating $20,000, by which it was estimated that some $600,000 in a year's income was saved for the lighting company. It would seem much less a matter of surprise that the company should bribe under such circumstances than that a self-respecting community should permit the continuance of the system.

However, a better precedent had been long established by the Spring Valley Water Company, which in all cases of dispute as to the rates granted by the Supervisors had sought the courts, where the rates may be set aside if shown to be confiscatory. Under the Buckley regime the methods of this company had been by no means above suspicion, but since the adoption of the charter there had been no suggestion of any impropriety between it and the various municipal boards.

The Courts were equally open to the Gas and Electric Company to set aside any rate if it afforded a return which was confiscatory of its property. While it is true that the company is entitled to

an income which is something more than a mere absence of confiscation, we have yet to hear it seriously urged that this is an excuse for bribery, either in morals or at law. The method of fixing rates, however, is radically unjust, and some rational tribunal should be created for their determination.

THE CORPORATIONS' SHARE IN THE BRIBERIES.

It is not in the province of this committee to fix the responsibility of the individual human beings, other than those who confessed, for the crimes committed for the benefit of the quasi-public companies. The beneficiaries were in all cases corporations, and their boards of directors have absolute power in their government. It is of course conceivable that the large sums necessary to effectuate these briberies were smuggled through the companies' budgets without the knowledge of some of the directors. It is also possible that, in the case of the gas company and the railway company the moneys were furnished by persons interested in "holding companies" owning blocks of stock in the corporation benefitted. The fact, however, that their companies are the beneficiaries of the dishonorable acts placed upon these directors the duty, not only of making reparation to the community for the stolen benefits, but of lending vigorous assistance to the People in hunting down and punishing the criminals. We are unable to see any difference in morals between the private person who knowingly keeps a case of wine which his butler has bribed the merchant's clerk to sell at half price, and the board of directors of a quasi-public corporation which knowingly retains a franchise secured by bribery. In no case has any corporation made reparation, and in no case has any substantial assistance been rendered the government in unearthing the crimes or punishing the criminals.

San Francisco will have many dealings in the future with the directors of these quasi-public corporations. They will come to many agreements regarding the supply of light, water, transportation and the telephone. Many of the terms of these agreements are not capable of exact statement and their performance is very largely a matter of good faith on the part of the directors of the companies. A dishonorable management could, without detection, add a few switches each month to the telephone bill of each business office using its system. It could deteriorate the quality of gas till it reached the minimum of light with the maximum of profit to the company. It could falsify both its gas and water meters. It could, instead of supplying a seat to each passenger, or running new lines temporarily without profit to develop new districts and thus prevent unhealthy congestion of population, divert the cost of such a service into interest and dividends, or watered bonds and stock.

Whether boards of directors which have on them many men of integrity in their private affairs, but which are unable to discover that large sums are being paid as bribes to secure benefits for their companies, and which retain the benefits after they discover they have been stolen, would be any more efficient in discovering or punishing such frauds on their patrons, is a matter for the present and future officials of the city to solve. In answer to the inquiry of your Honor's letter regarding the conditions leading to the graft prosecution, however, we feel it within our jurisdiction to report the names of the persons who sat on the boards of directors either

during 1906, in which time the briberies were committed, or in 1907, when the briberies were disclosed. We have no evidence to show how far these persons were interested in the stock of the company, and the list concerns solely their responsibility as directors:

PARKSIDE COMPANY.

W. H. Crocker.
Wellington Gregg, Jr.
C. E. Green.
J. J. Mahony.
W. H. Cope.
A. F. Morrison.
Hugh Keenan.
Wm. Matson.
J. M. O'Brien.
Douglas S. Watson.
J. E. Green.

UNITED RAILROADS.

Patrick Calhoun.
G. F. Chapman.
Geo. H. Davis.
Trey L. Ford.
Benj. S. Guiness.
I. W. Hellman.
Chas. Holbrook.
*A. C. Kains.
J. Henry Meyer.
Thornwell Mullaly.
*Jos. S. Tobin.

*Mr. Tobin and Mr. Kains severed their connections with the company about the time of the disclosures. The remaining gentlemen have continued the operation of the road under the bribed permit.

PACIFIC GAS AND ELECTRIC COMPANY.

N. W. Halsey.
E. J. de Sabla.
John Martin.
Frank G. Drum.
Wm. H. Crocker.
N. D. Rideout.
Frank B. Anderson.
Jos. S. Tobin.
John A. Britton.
Henry E. Bothin.
Louis F. Monteagle.
G. H. McEnerney.
Cyrus Pierce.
Carl Taylor.
F. W. M. McCutcheon.

PACIFIC STATES TELEPHONE AND TELEGRAPH COMPANY.

Henry T. Scott.
Louis Glass.
F. W. Eaton.
Timothy Hopkins.
Homer S. King.
F. G. Drum.
E. S. Pillsbury.
Percy T. Morgan.
(All of San Francisco.)
J. C. Ainsworth.
P. Bacon.
J. H. Thatcher.
C. H. Chambreau.
E. H. McCracken.
C. B. McLeod.
C. E. Hickman.
J P. McNichols.
R. W. Schmeer.
(All of Portland.)

We have discovered no evidence of the names of the directors of the Home Telephone Company.

The directors of the Spring Valley Water Company should be named because of the clean record of that corporation during the Payson regime.

SPRING VALLEY WATER COMPANY.

A. H. Payson, President.
C. de Guigne.
C. W. Howard.
F. B. Anderson.
Homer S. King.
J. M. Quay.
I. W. Hellman, Jr.

The Granting of Immunity to Certain of the Supervisors and Leniency to Ruef, and the Resultant Cleaning Up of the City Government.

The number of persons indicted for the crimes we have described in the preceding pages was twenty-one, including Mayor Schmitz, Abraham Ruef, and three of the Supervisors. With the exception of these five, the indicted men represented interests which would receive the large profits of the briberies In order to obtain the evidence for the indictments of the bribe givers, the District Attorney deemed it necessary to make agreements to use his office to procure complete immunity for the Supervisors, and subsequently to promise aid in securing leniency to Abraham Ruef. Each of these persons was by law entitled to remain mute before the Grand Jury, on the ground that his evidence might tend to incriminate him.

The practice of the government's prosecuting officer agreeing with certain members of groups of lawbreakers to use the influence of his office to procure immunity from punishment or leniency in sentencing in return for a full and true disclosure of the facts has been established for many centuries in those tribunals following the criminal law developed from the Anglo-Saxon civilization in England. The exercise of this power not only has the sanction of the practice of centuries, but has been repeatedly approved by the Supreme Court of the United States. It is now the practice in nearly all the American States, and in one state the prosecuting officer's agreement for immunity is all that is needed to protect the accused in subsequent prosecutions. In most States the procedure is to stay the prosecution or sentence till the Governor has pardoned the confessing party.

The necessity for the use of the power to grant immunity became apparent early in the prosecutions. With but one exception, that of James L. Gallagher, who distributed the bribes and, as chairman of the Board in the Mayor's absence, marshalled the votes, the men of the Board of Supervisors were mere political puppets placed in power by Ruef and extremely unlikely to have any influence in the community, politically or otherwise, after the expiration of one term in office. If a choice had to be made between attempting a conviction of the apparently respectable criminal, whose large profit from crimes of this character makes him the more powerful to prey on society, and a mere pawn on the political chess board whose capacity for harmfulness would end with the exposure of his criminality, there could be no question that the people should choose the former. A democracy's permanency rests entirely in the belief of the common man that it is the best form devised to protect him from the rapacity and selfishness certain to develop in some of his more powerful neighbors. In such a government, the choice by the prosecuting officer of the weak agent in the commission of a crime, because of the facility of his conviction, and the avoidance of the more arduous contest with his dangerous and resourceful master, is simply preparing ground for anarchy or revolution.

It was urged that both the receivers of the huge profits of the briberies and their tools in office could have been convicted, and that it was unnecessary to give immunity to so many of the Supervisors. The District Attorney's explanations of the reasons for his action appear to amply justify his choice of the former course. Gallagher, the leader of the Board, had paid the bribes to each Supervisor without witnesses. He was a necessary connecting link in the chain from the profiting corporation to the vote cast in the Board, and without him there was no method of discovering from whom he received the money. Gallagher refused to confess unless immunity were granted to all the Supervisors, and held firmly to this position.

Although the District Attorney had trapped several Supervisors in other briberies, in which Gallagher had not participated, and had these guilty persons as witnesses against him, still, as he could be tried for bribing but one Supervisor at a time there could have been but this one witness contradicting his oath that he had not bribed, while a majority of the Board, in all likelihood, would have sworn that they voted for the ordinance without promise of compensation. This would have been an extremely difficult case to win, and, even if won, there was no guaranty that Gallagher would have then made himself the State's witness against the person or persons supplying money to him.

Aside from this doubtful utility of a conviction of Gallagher, there was the long time that would necessarily be lost in his trial. All the city's offices were in the hands of Ruef and Schmitz. The election commission which would have had charge of the election in the succeeding November could have been remodeled to do the bidding of the Mayor and would have made fraudulent voting extremely difficult of detection. The Chief of Police was their ardent supporter and threw the whole strength of a not unwilling department to cover up the crimes and hamper the work of the District Attorney's detectives.

It appeared essential for the success of the investigation that the police force be made at least neutral. This could be done only by the removal of Mayor Schmitz on conviction of some of his crimes, and the election of a successor who would appoint a decent Board of Police Commissioners. The Supervisors alone have the power to fill a vacancy in the Mayor's chair, and it was reasonable to suppose that, if the members of the Board were under indictment and being prosecuted, they would not elect a Mayor who would take from them the active support of the Police Department.

The Supervisors' testimony gave the Grand Jury the facts as to the passing of the ordinances, the payment of the money by Gallagher to various Supervisors, and the payment of the money to Gallagher by Ruef. The chain of evidence, however, stopped at Gallagher's testimony that Ruef paid him the money in all but the Pacific States Telephone briberies, and no further evidence was discovered against the Mayor in connection with the French restaurant extortions.

The question then arose as to the advisability of treating with Ruef to secure the evidence as to the method by which the moneys came from the quasi-public corporations. Ruef was a man of very different caliber from the Supervisors. He was a graduate of the State University, had for many years been recognized as a lawyer

of high skill though questionable practice, and was the organizing brain of the corruption of the Schmitz regime. He was a dangerous man to leave at large without the felon's brand on him, and yet it became apparent that, without this one man's testimony, the many bribe-givers whose enrichment by the large profits of such undertakings made them equally, if not more, dangerous to society, would not only escape the penalty which was their due, but that even their names would not be discovered and written in the "detinue book" of the city's supicious characters.

Besides, without Ruef's assistance, the conviction of Schmitz, with the resultant change in the Mayoralty, the police and other municipal boards, seemed impossible. The District Attorney had the choice in this dilemma. He could leave the Mayor and his administrative boards in power, discover nothing regarding the profit-takers from the briberies, and content himself with a mere change in the Supervisors and a long term of imprisonment for Ruef, or he could reasonably expect the conviction of the Mayor, the cleaning up of the city government, the obtaining of a complete revelation of the grafters "high up", as well as "low down", and the possible conviction of some of them.

The District Attorney chose the latter alternative, and bargained with Ruef. The negotiations covered many weeks and were carried on through the District Attorney, his assistant, Mr. Heney, and Detective Burns for the people, and Ruef, and Rabbi Nieto and Rabbi Kaplan, both being clergymen of Ruef's faith. Sometimes all these men met together, sometimes not more than two were present at the negotiations. The terms offered on each side varied from time to time, as well as the points of view of those of the same side, all of which led to considerable confusion. A written contract was finally signed, whereby Ruef agreed to tell fully and unreservedly all he knew of all the briberies and to plead guilty to certain of the French restaurant extortion cases, and the District Attorney agreed to use the power of his office to procure him immunity as to the other charges. This document was placed in the joint keeping of Detective Burns, and, at first, one of the rabbis, and later the other.

Mr. Ruef and Rabbi Kaplan and Rabbi Nieto all insist that the written agreement did not contain the entire contract and that the clause in it reserving the French restaurant case from the immunity agreement was a mere sham. The real agreement they claim was that Ruef should later be allowed to change his plea of "guilty" in the latter case to "not guilty", and then the action should be dismissed. Scmitz was convicted very largely on Ruef's testimony against him. Neither rabbi protested when Reuf led the jury to believe that the agreement was not for a complete immunity but merely that the District Attorney and Mr. Burns were to use their efforts to procure leniency for him. In the succeeding campaign for District Attorney, Mr. Heney repeatedly said, in answer to certain assertions that complete immunity had been given Ruef, that it had not and that he would send him to prison, and his attitude very largely determined the result of the election. Yet the rabbis made no public disclosure of any agreement as to complete immunity.

All the persons representing the government, including Mr. Langdon, Mr. Heney and Mr. Burns, assert that the rabbis repeatedly asked for complete immunity, but that it was at all times refused. They say that the written contract contained the actual agreement reached with Ruef and with them as Ruef's agents. Applying the common sense rule that persons do not make specific written provisions in a contract when they intend the exact contrary, and giving the clergymen the benefit of the presumption that they would not have connived at or remained mute under a suborned conviction of Schmitz, or an election of a District Attorney on fraudulent misrepresentation, we are driven to the conclusion that the agreement for entire immunity was never entered into. The confusion in the negotiations was sufficient to warrant the confusion of memory which later led to the rabbis' contradiction of the written agreement.

We have mentioned this controversy, not because we would have regarded it as an error to grant Ruef complete immunity if necessary to expose the corruption amongst the profit takers, and to oust the Mayor and his Commissions, but because it raises a serious question of good faith on the part of the people's representatives, both political and religious. If, in order to convict Schmitz and elect the District Attorney, the officers of the government and these ministers of religion were deliberately concealing the true nature of the agreement and permitting Ruef to lie about it to the jury, and Heney to lie about it to the people, then surely the hope of better things was a mere will-o-the-wisp.

Schmitz was convicted on June 13, 1907, and subsequently the Supervisors, under pressure of the District Attorney, declared his office vacant and elected Edward R. Taylor, Dean of the Hastings College of the Law—a branch of the State University—to fill the vacancy. The Supervisors then resigned, one by one, the vacancy in each case being filled by an appointee of the Mayor.

This extraordinary proceeding, made possible by the wise provisions of the city charter, and which changed the entire executive and legislative personnel of the city government, was ratified by the people in the election in the following November. In that campaign the Mayor and practically all the Supervisors were elected with large pluralities to the offices to which they had been indirectly appointed by the District Attorney. This election was the more significant of the attitude of the mass of the people on the prosecution of the bribers, as the new Board of Police Commissioners had given orders to the police to assist the District Attorney; and the Supervisors had voted large sums for the expenses necessary to carry on his work.

The Right of Citizens Not Holding Office to Contribute Assistance in the Prosecution of Crime.

The public service corporations of San Francisco have, for a long time, furnished the State with special prosecutors in criminal cases where their interests have been concerned. Prior to and during the period of the graft prosecutions the following attorneys assisted in prosecuting various crimes on behalf of the corporations set opposite their names:

James F. Sheehan, United Railroads,
Frank P. Kelly, Southern Pacific Company,
J. P. Coghlan, San Francisco Gas and Electric Company,
Twamley & Smith, Pacific States Telephone and Telegraph Company.

When indictments were found against the officers and employees of some of these companies, a great clamor was raised on their behalf that it was an outrage for the District Attorney to accept assistance from Mr. Spreckels and other private citizens.

Mr. Calhoun, the president of the United Railroads, whose attorney Mr. Sheehan had assisted the District Attorney in dozens of criminal cases, addressed a pamphlet to the chairman of this committee, in which he asks, among others, the following question:

> "3. Can a private citizen contribute money to help the city's prosecuting officers in the investigation and trial of a criminal charge?"

Dean Wigmore, of the Northwestern School of Law, was sent a similar pamphlet and answered the question in the following language:

> "Answer: He can; and it is stupid even to put the question. Under the original English jury-system (of which you receive the benefit), and until the last century, the private citizen was usually obliged to pay the prosecuting expenses; for the State did not, and crime went unpunished otherwise. If nowadays, in any community, crime is again likely to go unpunished without the help of private citizens, there is no reason why we should not revert to the old system. As for Mr. Spreckels (the private citizen here named by you), his name should be held in honor, and will ever be, as against anything your pamphlet can say. As for Mr. Heney and his receipt of $47,500 officially and 'large sums of money additionally' from Mr. Spreckels, it may be presumed that he spent most of it on trial expenses, and did not keep it as a personal reward. But even if he did so keep it, let me register the view that he is welcome to all this—and to more—if anybody will give it and that no money compensation is too high for such rare courage."

We feel we can add nothing to Mr. Wigmore's reply, save the suggestion the practice had the long standing precedent of Mr. Calhoun's own company.

Of course, if the purpose of assisting the Government is primarily to enmesh in the toils of the law entirely innocent persons for the purpose of private malice, or to assist in confiscation of their properties, the act becomes improper. This is equally true, whether the prosecutions are initiated and carried on by private persons or public officials.

The fact that Mr. Spreckels and Mr. Phelan were among the organizers of a corporation to establish a railway system in San Francisco has been seized upon as evidence of a plot against the United Railroads. The articles of incorporation of this new company were filed on April 17, 1906, several months after the coterie of men who started to investigate the Schmitz-Ruef regime had come together.

The by-laws of the company provided for the establishment of the underground system and for a sale of the road to the city for a reasonable price, over and above cost and risk. The date of filing their articles is significant, as it is within a month after Mr. Calhoun had broken off with the Committee of Improvement and Adornment, and had abandoned a tentative agreement to change his roads on Sutter and Market streets to the underground system. During this period these gentlemen took the necessary steps to organize their company, with the avowed purpose of proving the untruth of Mr. Calhoun's assertion that an underground system could not be run profitably on an honest capitalization.

The fact that every effort had been used to persuade Mr. Calhoun to adopt the underground system in negotiations extending over weeks of time; that the proposed road was to use this system as a demonstration of its feasibility; that they contemplated a sale to the municipality at a reasonable figure; that they lent the same assistance to the indictment and prosecution of officers and employees of nearly every *other* quasi-public corporation in the city; and, above all, that they never attempted to attack the *franchises* of the United Railroads, satisfied your committee that the ruin or embarrassment of that company played no part in the plans of the men contributing to the funds of the prosecution.

No doubt the exposure of the corruption during Mr. Calhoun's management has made the renewal of the franchises of the United Railroads very unlikely. If the value of the stocks of the company rests on the hope of renewal, it will unquestionably depreciate. It is absurd to say, however, that it is the exposure of corruption and not the corruption itself which causes this depreciation. To do so is to assert that business organizations may properly be capitalized on the theory that our government is too weak even to discover that crime is being committed.

The Oliver Grand Jury and the Commencement of the Prosecutions.

It was not until October, 1906, that sufficient evidence had been unearthed regarding the complicity of Ruef and the Mayor in the French restaurant extortion to warrant the government taking the open in a general investigation into the alleged criminality of other municipal office holders. District Attorney Langdon appointed Mr. Heney assistant district attorney on October 22nd, and announced that Mr. Rudolph Spreckels had already furnished and would continue to furnish the funds necessary to engage the detectives to carry on the work.

Mayor Schmitz was at this time traveling in Europe. Three days after the appointment of Heney and the announcement of the intended investigation of the supervisors, Gallagher, the president of the Board and acting Mayor, attemped to remove Langdon from the District Attorneyship on the ground that he had been neglecting the duties of his office in his campaign for the governorship, and appointed Ruef to fill the vacancy. The Mayor's power of removal was limited to the purely municipal officers. As the District Attorney represented the people of the state as a whole, the Mayor had no jurisdiction over him, and Judge Seawell of the Superior Court so held in the subsequent proceedings.

The astonishing boldness of the attempt by the acting chief executive of the city to oust the State's prosecutor and to substitute in his place the criminal who had just been announced as the subject of prosecution, shocked the city, preoccupied as it had been with the task of reconstruction, into sober attention. From that time there has been a strong and vigorous body of men standing in unswerving support of the government in its attempts to make impossible the repetition of such conditions. On November 10, 1906, Judge Thomas F. Graham appointed the grand jury, of which B. P. Oliver became the foreman, and which subsequently took its name from him. This jury was made up of the following men:

MAURICE BLOCK,
C. G. BURNETT,
JEREMIAH DEASY,
DEWEY COFFIN,
FRANK A. DWYER,
E. J. GALLAGHER,
JAMES E. GORDON,
ALFRED GREENEBAUM,
MORRIS A. LEVINGSTON,
RUDOLPH MOHR,
W. P. REDINGTON,
ANSEL C. ROBINSON,
CHRISTIAN P. RODE,
MENDLE ROTHENBERG,
F. G. SANBORN,
CHARLES SONNTAG,
HERMAN H. YOUNG,
WALLACE G. WISE,
B. P. OLIVER.

Much has been said and should be said for the great assistance rendered the people by such men as Heney, Matt I. Sullivan, Spreckels, Older, Johnson, O'Gara, Phelan and Burns, in rescuing the city government from the band of thieves into whose hands it had fallen, but each of these has had, with the trials and stress of the struggle, that honor and recognition—

in this case nation wide—always bestowed upon strong men who become the people's recognized leaders in time of public danger.

The members of the Oliver Grand Jury knew that no such distinction awaited the performance of their duty. They were business and professional men of good standing, none of exceptional fortune, most of them not even of the class known in American parlance as men of independent means. They, however, had growing businesses to endanger, credit at their bankers to be lost, powerful commercial antagonists to meet in the fierce competition of American economic life. The merchants of the jury knew that the institutions they attacked involved the men who controlled the transportation of their goods, the credits with which they purchased them, and who could deprive them of part of the market in which they were sold. Professional men realized that to offend the financial and social powers whose participancy in the crimes they had unearthed meant loss of prestige and serious inroads on their clientele. Five of the jurymen were of the same race and religion as Abraham Ruef, while many other denominations were represented both on the jury and among the indicted. Harder to face, for some at least, was the severance of long-standing friendships, business and social, with the men against whom they ultimately found their indictments, and the social ostracism from certain circles, not only for themselves, but also for their wives and children.

The elder jurymen could well remember the days in California when the assassin's bullet paid the debt that the gambler or other profit taker from vice thought he owed to those who exposed his wrong doing. In the light of that history they could have anticipated the bold but carefully planned violence which, in the succeeding year, brought the dynamiting of the home of Gallagher, chief witness for the government, when it contained half a dozen men, women and children; the kidnapping of Editor Older; the attempted kidnapping of Lonergan; the equally bold and perhaps more subtly induced shooting of Heney, and the mysterious death of his would-be murderer before the government had had a chance to complete its examination as to his motives or the possible instigators of his crime.

When the Pacific Coast compiles its records of civic patriotism, the names of these men should not be forgotten. At no time in the history of California was her form of government put to a severer test than when her people, through their District Attorney, administered the Grand Juror's oath to each member of that body and called upon him "to diligently inquire into, and true presentment make, of all public offenses against the people of this state committed, or triable within this county of which you shall have or can obtain legal evidence . . .", and to "present no person through malice, hatred or ill will, nor leave any unpresented through fear, favor or affection, or for any reward or the promise thereof". Their response vindicated the State's claim to some share at least in the heritage of the institutions of her Anglo-Saxon ancestors.

The Election of District Attorney Langdon in the Fall of 1907—The Distortions of the Press and the Method Used by Heney and Other Speakers to Counteract Them.

The campaign for District Attorney developed a strong opposition from the combination of interests which the District Attorney and his assistants had been prosecuting. The opposition centred around Patrick Calhoun, a man of pleasing and forceful personality, who had been an operator in railroad franchises of not untroubled record in other American cities. Mr. Calhoun had attracted some suspicion when, in March before the fire, he broke off the United Railroads' negotiations with the Adornment Committee for electrifying his system and announced that he proposed to deal with the "people" through the notorious Ruef board. Later this suspicion was deepened by an extraordinary interview with Mr. Calhoun, published in the San Francisco "Examiner", March 20th, 1907, and in other papers, in response to a suggestion that he had bribed Schmitz in the trolley matter.

> "'Let me say that there is not a syllable of truth in that charge,' said Mr. Calhoun. 'I don't mind saying that I have a warm personal regard for Mayor Schmitz and when he was in New York I invited him to my house. Anyone who knows me knows that if I had bribed him I would not have invited him to my house.'"

Such a statement, coming after Schmitz's indictment for extortion from the French restaurant proprietors, the crime of a parasite on a parasite, on a vice which was undermining the home, necessarily awakened further unfavorable comment from self-respecting citizens. This was the more so as Mr. Calhoun, who showed himself most willing to reach the public through the press, did not deny its authenticity. In May, 1907, at about the time it became apparent that certain officials and agents of the United Railroads were to be indicted, a general strike was declared on all their roads. Opinion is still divided as to the responsibility for this reopening of the conflict between labor and capital, but it happened most opportunely for the indicted men.

We have before spoken of the class alignment arising out of the violence of the teamsters' strike in the last administration of Mayor Phelan, and how it drove into the capitalistic camp many peace-loving citizens who otherwise would have remained neutral in the class encounter. The phenomenon was repeated. Violence was resorted to, though in this case the police did not even make a pretense of protecting the cars from a mob of several thousand people. We have seen that the so-called labor administration had already sold itself to the agents of the railroad company, and it is apparent that if it had wanted police protection it could probably have gotten it. The cars were manned with a small force of detectives hired by Mr. Calhoun from the Thiele Detective Agency of St. Louis, brave and reckless young men who put up a plucky fight against the apparently overwhelming odds for nearly an hour, when they were finally rescued. The public, sorely strained by the trials of the preceding year, both natural and political, and craving peace, welcomed the show of force. Many timid people gave Mr. Calhoun the credit for the Thiele boys' bravery and on the successful disruption of the Carmen's Union, as the result of the strike, he became for them the heroic deliverer of a stricken city.

In the course of the ensuing campaign, Mr. Calhoun's popularity was used against the District Attorney in a very subtle way. With those friendly to him it was urged that he should not be prosecuted because of the services he had rendered in behalf of law and order. With the friends of the government it was urged that Langdon and Heney did not dare try Calhoun, despite the fact that the crime of which he was accused would destroy the very foundation of the government, because of his popularity.

In the heat of the campaign Mr. Heney, in very emphatic language, announced the intention of the government to press the Calhoun indictment to the bitter end. Such a statement made on the stump concerning an indictment appears a violation of the proprieties of the office of the District Attorney, and would seem to be justified only by extraordinary circumstances. The District Attorney claims that the circumstances did require it, that the public were being deceived by the accounts of the trials given in certain of the daily papers, and that only by explaining his intentions to the people directly could the government retain their support.

The accounts of the trial given in the San Francisco Morning Chronicle were certainly not ingenuous statements of what occurred in the court room. They omitted many occurrences that seemed favorable to the District Attorney's office, while they exploited the slightest misfortune or mistake in the daily feud between counsel which could bring discredit on the government.

It was not, however, until some months later, that the Chronicle admitted the sale of its columns for accounts of proceedings in courts of justice to be written up to suit the taste of the purchaser.

This admission arose in connection with the case of Baron vs. Woodruff, where Mr. Woodruff, a contractor, was sued for exceeding an alleged agreed maximum of cost in the erection of a building. The suit apparently hurt Mr. Woodruff in his business and he was anxious for vindication by the courts. He demurred to the complaint on certain formal grounds and the court sustained the demurrer, granting leave to amend. This was purely a technical proceeding, and in no way affected the merits of the controversy.

The decision on the law point was written up, however, as if the merits of the facts had been gone into, and Mrs. Baron was represented as having been adjudged by the court as entirely in the wrong. The body of the account was printed in the same type as the other news columns, the head lines of all the news articles on the page differing each from the other. Suit was evidently threatened by Mrs. Baron's counsel, for in the next morning's edition the paper admitted that the article complained of had been

written by Mr. Woodruff's attorney, and paid for at advertising rates.

It would seem that the same business instinct which, for a price, will give false accounts of court proceedings, as unimportant, comparatively, as the Baron case, might have taken pay for its perversion of the accounts of what actually occurred in the courtroom in the trials of those indicted for briberies yielding millions to the bribers. Such being the case, it would further seem that the District Attorney, seeking re-election, was justified in attempting to counteract by direct appeal to the people the false impressions produced by such means. The necessity for such appeal arises from an infirmity of the system which elects the District Attorney. The "people" are his clients, and he is put in a position where he must answer their queries as to his conduct of the cases prosecuted in their name. It is absurd and unjust to an innocent man accused of crime, but equally absurd and unjust to the people, if venal misrepresentation by the press cannot be explained away.

It should be noted in contrast that the Morning Call, under the editorship of Messrs. Simpson and Hornick, loyally supported the Government throughout the cases, and that the people responded by doubling its circulation.

Mr. Langdon was elected with a considerable plurality over the labor candidate, Mr. McGowan, who received, as Schmitz had received two years before, the support of all the graft sympathizers, including many persons of the most pronounced capitalistic affiliation.

The Crimes Committed to Defeat the Government in the Prosecutions.

The crime of bribery strikes at the foundation of democratic government. In so far as it seeks to establish an inner oligarchy controlling governmental functions, it amounts to treason, and treason in its most insidious and dangerous form. It is not surprising that from among those who had thus combined to take the life of the government itself, there should be those who would commit other crimes to prevent conviction for the first. Nor is it surprising if they weighed lightly human lives standing in the way of their freedom or of the "system" they hoped to substitute for the government.

THE DYNAMITING OF THE HOME OF GALLAGHER.

We have before shown that James L. Gallagher, the chairman of the Board of Supervisors, was a necessary link in the chain of evidence from the corporations to the various bribed Supervisors. At about half past seven in the evening of the 29th of April, 1908, Peter Claudianes exploded a powerful dynamite bomb under Gallaghers' home in Alameda. At this time there were in the house, beside Mr. and Mrs. Gallagher, Mr. and Mrs. Schenck, their two daughters, and a son, and a gentleman calling on the ladies. The explosion wrecked one side of the house, injuring the room upstairs in which were Mr. and Mrs. Gallagher, both of whom escaped unhurt. Mr. Schenck had been late to dinner and this delay had kept the rest of the family and their guest in another portion of the house, and they escaped also.

There was an attempt made by the newspapers opposing the government in the prosecutions to create an impression that Gallagher had procured the blowing up of his own house to enlist sympathy. This suggestion was silenced by the apprehension of the two Claudianes brothers, the confession of one of them that they had been paid to kill Gallagher by Felix Paudivaris, an employee of the United Railroads and a political friend of Ruef's, who had disappeared shortly after the explosion; the conviction of Peter Claudianes and his sentence to life imprisonment.

THE KIDNAPING OF FREMONT OLDER.

The "Evening Bulletin" continued the same vigorous support of the prosecution as it showed in its earlier attacks on the Ruef-Schmitz regime. Mr. Fremont Older, as the manager, was primarily responsible for the execution of this policy, and he gave to it the whole force of his energetic personality. In the course of publishing the news of the prosecution, the paper printed a story which showed one of the detectives in the employ of the United Railroads to have been in a compromising position. There was another detective in their employ of the same name, but with different initials, and through an error the wrong name was printed. It was clearly a libel, and the paper at once made amends, in so far as it could, by publication of the truth and explanation of the mistake.

The libelled man had Mr. Older indicted in Los Angeles, over

four hundred miles from San Francisco, and warrants issued for his arrest to deputies who were the detective's personal friends. These men came to San Francisco and, late in the afternoon of September 27, 1907, Mr. Older was lured by a false telephone message to a quiet street, where he was seized and hurried into an automobile. The law permits a person so apprehended to be taken before a judge in his own county to be admitted to bail. This Mr. Older demanded. His demand was refused, and he was carried, by a roundabout route of many miles, to a station on the railway to Los Angeles, where the whole party boarded a train for that destination. Fortunately, Mr. Older made no attempt to escape, although the offense of abduction began as soon as he was refused the right to go before a judge, and no violence was done to him.

The ruse was discovered before morning, and he was released on an order of court at Santa Barbara. There was an attorney for the United Railroads and the libelled man in the abducting party.

What the motive for this strange procedure was, other than the hope that Mr. Older might attempt to escape and thus give an excuse for violence, is hard to discover. His admission to bail in San Francisco in no way could have jeopardized the chance of bringing him to trial. The subsequent failure to press the case against him, and its abandonment and dismissal, seem to indicate that the motive for abduction was something entirely disconnected from a desire to secure justice for the libel in a court of law. If it was an attempt to change the policy of the paper, it failed signally.

BRIBERY OF JURORS.

Abraham Ruef plead guilty to the first charge against him that was brought to trial. In his second trial, it became apparent to the government that attempts were being made to have improper persons placed upon the jury and to bribe those who were finally empanelled. A. E. S. Blake was subsequently convicted and sentenced for offering a bribe to J. M. Kelly, who was empanelled on that jury. Mr. Kelly had reported this attempt to the District Attorney at once, and assisted in procuring Blake's conviction.

THE SHOOTING OF FRANCIS J. HENEY AND THE MYSTERIOUS DEATH OF HIS ASSAILANT.

Among other persons, concerning whom the government had information that they were attempting to qualify as jurors for improper purposes, was Morris Haas. Haas had been a keeper of a saloon of the lower order, and had been convicted for embezzlement, but had been subsequently pardoned and had no other conviction of crime against him. His name appeared upon the jury list in Ruef's second trial, and the government detectives informed the District Attorney that, although Haas had a wife and family, he was living with another woman, and that his paramour had said that he had boasted he would retrieve his fortunes by selling his vote for Ruef's acquittal. In order to get him off the jury, his conviction for forgery was publicly exposed by Mr. Heney while Haas was sitting in the jury box. As neither Haas' public nor private record seemed to warrant any special leniency, no attempt was made to hide his past career.

At this time the papers opposing the prosecution, particularly the "Examiner," "Globe" and "Chronicle," were making savage personal attacks on Mr. Heney. The so-called "Mutt" cartoons of the "San Francisco Examiner" sought by a broad, but clever ridicule, to convey the impression that Mr. Heney was a coarse and unprincipled charlatan, and that the entire prosecution was founded in injustice and carried on to satisfy a personal malice. One of these cartoons, which subsequently became notable, depicted him as a bird flying in the air, about to be brought down by a fowler's gun. It would not have incited any balanced person to commit violence, but to a weak or inflamed mind it might have been suggestive; though no doubt it was not deliberately so intended.

Through every channel of personal villification, from armed thugs in the courtroom to the daily and weekly publications, he was abused and threatened until, to the misinformed, he might well be considered a proper target for personal violence.

It would appear that Haas' mind was in that undeveloped type likely to take seriously these pictorial representations. At any rate, whether through the impressions gained through the press, or the incitement of the same persons who secured the dynamiting of Gallagher's home, or otherwise, Haas nursed his grievance against Mr. Heney until he came to regard his murder as a public benefaction. His plan for killing his victim was not the result of sudden passion, for he subsequently made the significant admission that he had concluded that it was best to postpone his attack until *after the election.* This meant a delay for a period of many weeks.

On the 13th day of November, 1908, Mr. Heney was conducting the third case against Ruef, when Haas, who had been for a number of days a spectator in the court room, slipped up behind him and fired a pistol bullet into his head, just forward of his right ear. By a chance more miraculous than the escape of the people in Gallagher's house, the bullet passed between his skull and jaw and exhausted its strength in the soft lining at the back of his mouth, finally lodging in the bone of the jaw on the opposite side. No vital organ was touched, and, apart from the shock to his nervous system and the loss of hearing in one ear, no permanent injury was inflicted.

Haas was seized and searched by two officers and no other weapon was found on him. The government's detectives put him through a partial examination for the purpose of discovering the instigators of the crime, if there were any. The examination was to have been continued the following day, but he was found dead in his cell, with a pistol bullet through his forehead, before the next session.

The weapon used was a small derringer, which might have escaped the search of the officers, and it was also possible that the comparatively slight powder mark around the wound was due to his holding the weapon a long distance from his face. Whether he took his own life, and, if so, whether he brought in the derringer or had it handed to him in jail, or whether he was killed to prevent his telling of his accomplices, will probably never be known. It is entirely possible that he committed suicide. It is equally possible that the same influence that paid Claudianes to place the bomb to kill Gallagher was responsible for Haas' death.

THE STEALING OF THE GOVERNMENT'S PAPERS AND SECRET INFORMATION.

Not only did the government have to contend against the bribing of jurors and the attempted murder of its witnesses and officers, but also against the betrayal of its secret information, thus keeping its enemies advised as to its intended movements. From the month of July, 1907, to August, 1908, copies of the reports of the government's detectives were nightly taken and furnished one of the attorneys for the United Railroads. In most cases the original reports were copied and the transcriptions furnished, in some the original itself was taken.

On the discovery of these thefts, the government obtained warrants and searched the offices of the United Railroads. Over seven hundred copies of the reports and various other documents belonging to the government were found on the premises.

The San Francisco Police Department.

The total number of crimes for which indictments were found by the Oliver Grand Jury was one hundred and seventy-five, participated in by nearly forty persons, representing practically every walk in life. Not one of them was unearthed by the Police Department of San Francisco, and the Chief of Police himself was indicted for perjury before the Grand Jury and for conspiring to prevent the detection of crime. It is apparent that such a department must have been rotten to the core.

As not a single officer or detective, commissioned or otherwise, has been removed for concealing or failing to discover any of the crimes, and as there have been practically no resignations from the department, it is apparent that its personnel is still of the same character. It would appear that another Schmitz-Ruef administration would find the same organized support standing ready to do its bidding.

The clearing up of the department is largely a matter of courage on the part of the Board of Police Commissioners, as the trial and removal of an officer for grafting or incompetence does not involve any of the technicalities of procedure and proof which have grown up around criminal prosecutions. It is not even necessary to show that the accused officer connived at crime. It is enough to warrant his removal for incompetence, if an illicit enterprise is found in his jurisdiction, or if there are strong indications that a crime may have been committed there, and he has failed to discover and report the facts.

The present commission has not permitted the open continuance of some of the more flagrant evils of the old system. It is still licensing the attractive and alluring debauchery of the French restaurants, and has not made any attempt to remove the men who gathered or permitted the gathering of the tribute of vice and crime for the support of the former administration.

The Election of the Fall of 1909.

Mr. Heney accepted the nomination of the Democratic party, and of the Good Government League, for the District Attorneyship, to succeed Mr. Langdon. He was opposed by Mr. Charles M. Fickert, who received the Union Labor and Republican nominations. Mr. Fickert was elected, receiving 36,192 votes to Mr. Heney's 26,075.

In the course of the campaign, the old-standing class antagonism was made an issue. The cry to "vote a straight Labor ticket and be true to the cause" gave a considerable Labor vote to Mr. Fickert, and his nomination by the Republican party gave him a similar partisan support. This, combined with the tenderloin and saloon element, brought the Fickert vote up to not less than 25,000. The balance of his supporters was made up of those who were in sympathy with the doctrine of a wide open town and its accompanying loose morals, both in its political and commercial life, and those who were honestly convinced that the government was not sincere in its efforts and who failed to realize the tremendous obstacles that had been placed in its way by the beneficiaries of the graft system. The latter class of Fickert's votes were the direct product of the three years of villification and abuse to which certain of the daily papers and nearly all the weekly papers had subjected Mr. Langdon, Mr. Heney, Mr. Burns and Mr. Spreckels.

Some of Mr. Heney's speeches lent color to the claim that he was attempting to try the accused man at the bar of public opinion rather than in the courts of justice, and he permitted himself to be drawn into personalities from which a calmer judgment would have saved him. The bulk of well-intentioned citizens understood the strain to which the three years of most bitter and arduous courtroom service, coupled with the shock of his shooting, had subjected him and, judged in their true light his statements made in the heat of the campaign. However, the failure to make clear that it was the People of the State of California who had been offended by the briberies, and that it was the People who were prosecuting the cases, and that the District Attorney was merely the agent of the community, as a political entity, lost Mr. Heney many votes. Your committee see no reason to question the continuance of the sincerity of the prosecution, and has the highest appreciation of Mr. Heney's splendid services and of the results accomplished, not only in unmasking the real forces behind the corruption in San Francisco, but in overthrowing the Ruef-Schmitz administration; nevertheless, it cannot pass by the campaign of 1909 without pointing out what, in our opinion, was its chief weakness.

On the other hand we cannot but feel that had the ballot been free of the straight-ticket device, and the people been voting directly on the qualifications of the candidates for their respective positions, the vote would have been very different. The number of persons who will accept a party label as a substitute for their own conviction regarding the candidate's merits, is still very large. No better evidence of this is needed than the bitter opposition of the machine politicians to any attempt to abolish the "party circle" on the ballot.

Nothing could be more illogical than the determination of the qualifications of the man who is to administer the law impartially, by his allegiance to a partisan organization. The same is true of all the officers of a municipality, but it applies the more forcibly to the Police Judges and the District Attorney who exercise judicial or quasi-judicial functions. Our laws have already recognized the want of logic in partisan elections of municipal officers who are supposed to exercise impartially their official functions, and Los Angeles, Fresno, Alameda and other cities now elect their city officers on ballots which simply show the names of the candidates under the office to be filled, without party or any other designation.

Recommendations.

The foregoing is but a partial review of some of the factors which tend to maintain the corrupt conditions in our municipality. Whatever advantages a contemporaneous record may have must be taken along with the disadvantages arising from the want of historical perspective. It is little more than a series of findings on the more important matters of fact which have been brought to our attention in the fourteen months over which our sessions have extended.

While the vista of time is necessary to view these in their just proportions and relationship, we feel that there are some remedies which may help protect the community, till a maturer and more vigorous public sentiment itself keeps in suppression the evil tendencies and influences we have pictured.

Pursuant to the request in your Honor's commission to us, we submit the following recommendations:

(1) *Non-Partisan Municipal Elections.* The charter should be so amended as to prohibit partisan nominations for election to municipal offices, the ballot, when printed, to show nothing more than the name and the office of the candidate.

(2) *A Judicial Tribunal for the Determination of Charges for Public Utilities.* A separate tribunal of permanent character should be established for the judicial determination of the rates and charges for public utilities.

(3) *Further Punishment for Bribery.* The laws creating the crime of bribery should be so amended as to provide for the punishment of corporations in their corporate capacity. Very heavy fines should be imposed, and the forfeiture to the State or City of prior acquired franchises should be made a part of the punishment.

(4) *Cancellation of Franchises Procured by Fraud.* Laws should be enacted for the cancellation of franchises procured by fraud or crime of the owners of the franchises, or of their predecessors in interest. These laws should be of a civil nature, cognizable in a court of equity, so that the extreme technicality of our criminal procedure will not embarrass their enforcement. The Mayor and the District Attorney, each on his own motion, should have the right to initiate such proceedings in the name of the municipality upon which the fraud has been committed. Their power should be concurrent with that of the State to take similar action in *quo warranto* proceedings.

(5) *Corporations Should be Compelled to Give Evidence Against Themselves.* The law of evidence in criminal cases should be so amended that a corporation accused of crime cannot claim immunity from producing or giving evidence against itself, and the testimony of its officers, and all its documents should be admissible in criminal proceedings against it. As a corporation can commit a crime only through an officer or an employee, in a prosecution for such crime the officer or employee should not be permitted to remain mute on the ground that his testimony would tend to incriminate him.

(6) *Accounts of Quasi-Public Corporations.* Laws should be enacted requiring all quasi-public corporations to keep their books in collaboration with the communities they serve, and according to a system prescribed by law.

(7) *The Undisclosed Sale of News Columns to be a Crime.* Laws should be enacted making it a crime for any newspaper to publish as news any matters for which compensation is directly or indirectly paid, or agreed to be paid, unless the fact that such compensation has been paid or agreed to be paid is indicated by some plainly distinguishing mark next the news so printed. The jury or judge should be given liberal power of inferring complicity from considerations indirectly given. A person paying such compensation should be permitted to recover the consideration given by him, and immunity granted him, if he disclose the crime. A part of the punishment should consist in forbidding the publication of the paper for a period fixed by the judge.

(8) *The School System.* The trial of Mr. Calhoun disclosed a considerable number of citizens who, when examined under oath as to their qualifications for jury service, complacently declared that they would not convict a man for bribery, however convincing the evidence, if, since his crime, he has successfully broken a strike which was threatening his investments. A system of public education which produces such men must be radically defective in both its ethical and political teaching. It is our belief that no child should be permitted to leave the grammar school until he has had thoroughly instilled into him a strong sense of his obligation to the State to set aside all prejudice or private interest and act as juryman in any case in which he may be summoned. He should be taught that this obligation is sacred, that its performance is the highest kind of public service, outranking the mere physical courage and devotion of a soldier.

It is our opinion that the schools have not kept pace in their ethical instruction with the many complex changes in our commercial organization, due to the universal conduct of business through corporations. Every child should be taught that in all probability he will, for a very large period of his life, be an agent for some corporation. He should be taught the elemental facts concerning the workings of the corporate organization, and particularly the location of the immediate responsibility for any wrongdoing with the directors who elect the manager, and the ultimate responsibility of the stockholders who, in turn, elect the directors. He should be taught that if a disclosure of any impropriety in the relations of the corporation to the State does not receive the attention of the directors, he can make a direct appeal to the stockholders through the agency of the press.

Above all, he should be taught that the corporation is a mere creature of the State, and that it is as much the duty of the citizen to cry "Stop thief" to its attempt to seal a public franchise, as it is to raise the cry when he discovers the treasurer, or any other official, robbing the public of its coin.

No child should be permitted to leave the grammar school without a keen appreciation of the rights of every citizen to good service from public service corporations. He should be instructed what he is to expect from transportation, water, gas, electric, telephone and telegraph companies, and how to make effective his complaint if he does not receive his just due.

Our high schools should deal more specifically with the problems of corporate organization and each year give their quota of trained minds to cope with the sophistries offered to justify fictitious valuations, inadequate service or criminal relations with public officials who have the gifts of franchises.

If it be true, as has been suggested, that the overwhelming preponderance of women among our teachers makes such an addition to the curriculum impracticable, then we submit that the matters are of such importance as to warrant the employment of a sufficient number of male teachers of political and business ethics. We do not believe, however, that these problems present any difficulties to the intelligence of women which a proper normal school training cannot overcome.

The struggle against greed and social injustice will not be ended with our generation. Those who come after must continue the battle for the preservation of sane democratic government, and the "vigilance" which is the price of our liberty must be intelligent and organized as well as eternal.

WILLIAM DENMAN,
Chairman.

WILL J. FRENCH,
HENRY GIBBONS JR.,
ALEXANDER GOLDSTEIN,
W. K. GUTHRIE,
WILLIAM KENT.

My Dear Mr. Denman:

I have just gone over the report of our committee and heartily approve of the recommendations made at the end thereof.

It is with great regret that on account of my sickness and absence from the city and many of our meetings I am unable to sign the findings. This is not because I disagree with any of them, but because I am unable either to agree or disagree with several, on account of my failure to hear the evidence on which they rest. You do not need to be assured that as far as my connection with the committee is concerned, I have never felt out of harmony with the ideals and aims of my confreres, nor any doubt as to the integrity or sincerity of their purpose. Yours sincerely,

D. O. CROWLEY.

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